

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WGH COMMUNICATIONS, INC.,

Plaintiff,

-v-

No. 19-CV-2230-LTS

PENACHIO MALARA LLP et al.,

Defendants.

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ORDER

This case was recently reassigned to the undersigned. This Order addresses certain pending motions and pleading issues. On July 3, 2019, Plaintiff filed a motion for leave to file a First Amended Complaint. (Docket Entry No. 25.) Judge Batts had previously granted Plaintiff leave to file its First Amended Complaint by memorandum endorsement dated July 2, 2019. (Docket Entry No. 24.) In light of Judge Batts's July 2, 2019, endorsement, and in light of the lack of opposition to Plaintiff's motion, Plaintiff's motion for leave to file a First Amended Complaint is granted, subject to modification of the content of that complaint to address the jurisdictional issue outlined in the next paragraph of this Order.

Plaintiff's existing Complaint asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but omits allegations concerning the citizenship of the members of Defendant Penachio Malara LLP. Because the citizenship of an artificial business entity other than a corporation is determined by reference to the citizenship of its members, see C.T. Carden v. Arkoma Associates, 494 U.S. 185 (1990); E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925 (2d Cir. 1998); Keith v. Black Diamond Advisors, Inc., 48 F. Supp. 2d 326 (S.D.N.Y. 1999), Plaintiff's First Amended Complaint should include

allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court. Plaintiff is directed to file its First Amended Complaint by **Monday, March 9, 2020**.

In light of Plaintiff's forthcoming First Amended Complaint, the Motion to Dismiss filed by Defendants Penachio Malara LLP and Anne Penachio on October 15, 2019 (docket entry no. 31), is terminated without prejudice to renewal.

The Court has also received and reviewed the motion of Christopher J. Camera, counsel for Defendants Penachio Malara LLP and Anne Penachio, to withdraw his appearance in the above-captioned matter. Mr. Camera's motion is granted and the Clerk of Court is requested to update the docket accordingly.

Docket Entry Nos. 25, 31, and 36 are resolved.

SO ORDERED.

Dated: New York, New York
February 27, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge